

• • R E M A R K S • •

The Official Action of December 30, 2002 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment, claim 1 has been changed to recite that transversely opposite side edges each of the front and rear waist regions are bonded together to form a waist-opening and a pair of leg-openings.

Claims 1, 2, 4, and 5 are pending in this application.

Claim 1, 2, and 5 stand rejected under 35 U.S.C. §102(b) as being clearly anticipated by U.S. Patent No. 4,911,702 to O'Leary et al.

Claims 1, 2, 4 and 5 stand rejected under the judicially created doctrine of double patenting over claims 1, 4, 7 and 8 of U.S. Patent No. 6,475,205 to Shimada et al.

For the reasons set forth below, it is submitted that all of the pending claims are allowable over the prior art of record and therefore, each of the outstanding rejections of the claims should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly requested.

The Examiner has relied upon O'Leary et al. as disclosing a disposable diaper that comprises a liquid-pervious topsheet, a liquid-impervious backsheet, an absorbent core, a crotch region, front and rear waist regions, a waist opening, and a pair of leg openings.

The Examiner states that O'Leary et al. includes fastening tape strips 30 provided on the outer surface of the backsheet that extend in a longitudinal direction as shown in Fig. 1. The

Examiner further states that the fastener tape strips 30 have longitudinally opposite end regions 32 and 34 bonded to the diaper, and an intermediate region 36 comprising an adhesive region 44 that bonds to the outer peripheral surface of the diaper as shown in Fig. 6. The Examiner states that the intermediate region 36 defines an angle and projects outward transversely of the diaper as shown in Fig. 8.

On page 3 of the Official Action the Examiner states that “[t]he fastening tape strips 30 are fully capable of attaching to the outer surface of the diaper 2 to hold the diaper in a rolled up state for disposable.”

O’Leary et al. is directed to open-type diapers or incontinent garments that include attachment tabs that are used in conjunction with target tapes 22 to secure the front and rear wing-shaped portions of the diaper/garment together. Figures 1-3 of O’Leary et al. depict a prior art incontinent pad that includes two attachment tabs 16 and 18 that cooperate with a common target tape 22.

O’Leary et al.’s invention is an improvement over the prior art that uses an anchor strip 30 and a single attachment tab 38 as depicted in Fig. 4. Other embodiments are depicted in Figs. 5-8.

Applicants’ invention is directed to “pull-on” disposable diaper that has transversely opposite side edges on each of the front and rear waist regions that are bonded together to form a waist-opening and a pair of leg-openings.

The term “pull-on” or “pants-type” diapers are art recognized terms that are distinguishable from “open-type” diapers and incontinent garments. Pull-on or pants-type diapers can be used by older children who can pull their diapers up and down for potty training. Open-type diapers are generally used on younger infants and, rather than being pulled on, have side edges on the rear waist

portions that are wrapped about an infant's waist so as to overlap the front waist portion and be secured thereto with fastener tapes as depicted by O'Leary et al.

The fastener tapes of O'Leary et al. do not bond the side edges of the front and rear waist portions together. "Bonding" is a term in the diaper art that has a well recognized meaning which is distinguishable from "fastening" which is used in the art to describe how mechanisms are used to put on open-type diapers.

Applicants' have herein amended claim independent claim 1 to recite that the transversely opposite side edges each of the front and rear waist regions are bonded together to form a waist-opening and a pair of leg-openings. This recitation more clearly defines the structure of a "pull-on" diaper which is recited in the preamble of claim 1.

It is submitted that the use of the attachment tab 38 and anchoring strip 30 and target zone 22 of O'Leary et al. would have no useful function if incorporated into the structure of "pull-on" diapers as set forth in applicants' claimed invention.

Accordingly, O'Leary cannot be relied upon as anticipating applicants' claimed invention.

In response to the double patenting rejection, applicants are submitting herewith a Terminal Disclaimer in which they are disclaiming the term of any patent issuing on the present application which would extend beyond the term of U.S. Patent No. 6,475,205.

The Terminal Disclaimer is signed by applicants' registered patent attorney who is empowered to act on behalf of the assignee.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

Based upon the above distinctions between O'Leary et al. and the present invention, and the overall teachings of O'Leary et al., properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon O'Leary et al. as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

It is, therefore, submitted that any reliance upon O'Leary et al. would be improper inasmuch as O'Leary et al. does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of O'Leary et al. and the outstanding rejection of the claims should hence be withdrawn.

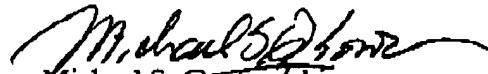
Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved; the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of

time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



Michael S. Ozybowski
Reg. No. 32,816

BUTZEL LONG
350 South Main Street
Suite 300
Ann Arbor, Michigan 48104
(734) 995-3310

Marked-Up Copy of the Claims
As Amended on March 25, 2003

1. (Three Times Amended) A pull-on disposable diaper comprising:

 a liquid-pervious topsheet;

 a liquid-impervious backsheet;

 a liquid-absorbent core disposed between said topsheet and said backsheet;

 a front waist [region;] region having transversely opposite side edges;

 a rear waist [region;] region having transversely opposite side edges; and

 a crotch region extending between said front and rear waist regions,

 said front and rear waist regions being placed upon each other with said topsheet inside and said [along] transversely opposite side edges of each of said front and rear waist regions being bonded together to form [of said diaper to define] a waist-opening and a pair of leg-openings, said diaper having an elastic stretchability circumferentially of said waist-opening and said leg-openings,

 said diaper further comprising fastening tape strips for holding said diaper in a rolled up state for disposal after said diaper has been used, said fastening tape strips being provided on an outer surface of said liquid-impervious backsheet and extending in a longitudinal direction of said diaper in parallel to said transversely opposite side edges in at least one of said front and rear waist regions,

 each of the fastening tape strips having longitudinally opposite end regions thereof bonded to the diaper in a vicinity of respective peripheral edges of said waist-opening and said leg-openings and an intermediate region extending between said longitudinally opposite end regions and including

on an inner surface thereof an adhesive region adapted to be separately bonded on the outer peripheral surface of said diaper when said diaper is rolled up for disposal,

said intermediate region of each of said fastening tape strips describing an angle having an apex which apex projects outward transversely of said diaper.